

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO.21-0866
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance submitting to a vote of the qualified and registered electors of the City and County of Denver at a special municipal election to be held on Tuesday, November 2, 2021, the question of whether the City shall be authorized to issue or incur general obligation debt for the purpose of financing and/or refinancing the cost of repairs and improvements to the Denver transportation and mobility system; providing the form of the ballot question; providing for other details in connection therewith; and ratifying action previously taken.

(1) **WHEREAS**, the City and County of Denver (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the Constitution (the "Constitution") and laws of the State of Colorado and the City Charter (the "Charter"); and

(2) **WHEREAS**, the members of the City Council of the City (the "City Council") have been duly elected and qualified; and

(3) **WHEREAS**, Article X, Section 20 of the Constitution ("TABOR") requires voter approval for the creation of any debt, imposition of any new tax, tax rate increase, mill levy above that for the prior year, extension of an expiring tax, and for collecting, retaining and expending certain moneys above limits established by TABOR; and

(4) **WHEREAS**, Section 7.5.1 of the Charter provides that no general obligation bonds shall be issued until the question of issuing the bonds shall have been submitted to a vote of the qualified and registered electors of the City and a majority of those voting upon the question by ballot shall have voted in favor of issuing such bonds; and

(5) **WHEREAS**, the City Council, after consultation with the Mayor and other appropriate municipal officers, has determined that the question of whether the City shall be authorized to issue or incur general obligation debt, including bonds, notes, loan agreements or other multiple fiscal year financial obligations of the City for the purposes and in the manner set forth in this ordinance should be submitted to the qualified and registered electors of the City at the special municipal election called by this ordinance to be held on November 2, 2021 (the "Election"); and

(6) **WHEREAS**, TABOR also requires the City to submit ballot issues (as defined in TABOR) to the City's electors on limited election days before action can be taken on such ballot issues; and

(7) **WHEREAS**, November 2, 2021, is one of the election dates at which ballot issues may

1 be submitted to the City's qualified and registered electors pursuant to TABOR; and

2 (8) **WHEREAS**, the Denver Clerk and Recorder (the "Clerk") is conducting a coordinated
3 election pursuant to the Uniform Election Code of 1992, being articles 1 through 13 of title 1, C.R.S.
4 (the "Uniform Election Code") on November 2, 2021; and

5 (9) **WHEREAS**, pursuant to Section 8.2.1 of the Charter, Section 15-4 Denver Revised
6 Municipal Code, Section 1-1-102 of the Uniform Election Code, Section 31-10-102.7, C.R.S. of the
7 Municipal Election Code, and this ordinance, the City Council may elect to utilize the provisions of
8 the Uniform Election Code in order to participate in the coordinated election on November 2, 2021;
9 and

10 (10) **WHEREAS**, the City Council hereby determines that it is necessary to submit to the
11 qualified and registered electors of the City, at the coordinated election to be held on November 2,
12 2021, the question of creating an indebtedness in the amounts specified in Section 3 below and the
13 imposition of an ad valorem property tax for the payment of such indebtedness; and

14 (11) **WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of
15 the Election.

16 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
17 **DENVER:**

18 **Section 1.** All action heretofore taken (not inconsistent with the provisions of this
19 ordinance) by the City and the officers thereof, directed towards the election, and the objects and
20 purposes herein stated is hereby ratified, approved and confirmed.

21 **Section 2.** Unless otherwise defined herein, all terms used herein shall have the
22 meanings defined in the Uniform Election Code.

23 **Section 3.** Pursuant to Section 8.2.3 of the Charter, the City Council hereby determines to
24 call a special election to be conducted pursuant to the Uniform Election Code as part of the
25 coordinated election being conducted by the Clerk on November 2, 2021. The City Council hereby
26 determines that at the Election, there shall be submitted to the qualified and registered electors of
27 the City the following question:

28 Denver Transportation and Mobility System Bonds
29 SHALL THE CITY AND COUNTY OF DENVER DEBT BE INCREASED \$63,320,000, WITH A
30 MAXIMUM REPAYMENT COST OF \$109,048,000, WITH NO EXPECTED INCREASE IN THE
31 CITY'S CURRENT RATE OF TAXATION FOR GENERAL OBLIGATION DEBT SERVICE BASED
32 ON THE CITY'S PROJECTED ASSESSED VALUE, THE PROCEEDS THEREOF TO BE USED
33 FOR REPAIRS AND IMPROVEMENTS TO THE DENVER TRANSPORTATION AND MOBILITY

1 SYSTEM, WHICH MAY INCLUDE BUT ARE NOT LIMITED TO:

- 2 • EXPANDING DENVER’S SIDEWALK NETWORK BY FILLING SIDEWALK COVERAGE
- 3 GAPS; AND
- 4 • IMPROVING BICYCLE SAFETY AND MOBILITY BY RENOVATING EXISTING BIKE LANES
- 5 AND CREATING NEW PROTECTED BIKE LANES AND NEIGHBORHOOD BIKEWAY
- 6 LANES; AND
- 7 • IMPROVING PEDESTRIAN AND BICYCLE SAFETY BY INSTALLING ENHANCED
- 8 CROSSWALKS, ADDING MEDIANS, IMPROVING AND INSTALLING NEW TRAFFIC
- 9 SIGNALS, AND OTHER MOBILITY INFRASTRUCTURE IMPROVEMENTS; AND
- 10 • RECONSTRUCTING SECTIONS OF THE MORRISON ROAD CORRIDOR TO CREATE A
- 11 CULTURAL AND ARTS DISTRICT; AND
- 12 • CONSTRUCTING A SEGMENT OF AN URBAN TRAIL AND PEDESTRIAN WALKWAY IN
- 13 DOWNTOWN DENVER;

14 BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS, NOTES, LOAN
 15 AGREEMENTS OR OTHER MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS,
 16 WHICH SHALL BE ISSUED OR INCURRED IN SUCH MANNER AND CONTAINING
 17 SUCH TERMS NOT INCONSISTENT HEREWITH AS THE CITY MAY DETERMINE (THE
 18 EXPENDITURE OF THE PROCEEDS THEREOF TO BE PUBLICLY REPORTED BY THE
 19 CITY ON AN ANNUAL BASIS); AND SHALL CITY AD VALOREM PROPERTY TAXES BE
 20 INCREASED WITHOUT LIMITATION AS TO RATE BUT BY NOT MORE THAN A
 21 MAXIMUM AMOUNT OF \$11,716,000 ANNUALLY IN AMOUNTS SUFFICIENT TO PAY THE
 22 PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH FINANCIAL OBLIGATIONS
 23 OR TO CREATE A RESERVE FOR SAME; AND SHALL THE CITY BE AUTHORIZED TO
 24 ISSUE FINANCIAL OBLIGATIONS TO REFUND OR REFINANCE SUCH FINANCIAL
 25 OBLIGATIONS AUTHORIZED IN THIS QUESTION, PROVIDED THAT SUCH REFUNDING
 26 FINANCIAL OBLIGATIONS WHEN COMBINED WITH OTHER OUTSTANDING FINANCIAL
 27 OBLIGATIONS AUTHORIZED IN THIS QUESTION DO NOT EXCEED THE MAXIMUM
 28 PRINCIPAL LIMITS OR REPAYMENT COSTS AUTHORIZED BY THIS QUESTION?

29 **Section 4.** The Clerk is hereby appointed as the designated election official of the City for
 30 purposes of performing acts required or permitted by law in connection with the Election.

31 **Section 5.** The officers and employees of the City are hereby authorized and directed to
 32 take all action necessary or appropriate to effectuate the provisions of this ordinance.

33 **Section 6.** If a majority of the votes cast on the question to authorize general obligation

1 indebtedness and the levy of ad valorem property taxes submitted at the Election shall be in favor
2 of incurring general obligation indebtedness and levying ad valorem property taxes as provided in
3 such question, the City, acting through the Mayor and City Council, shall be authorized to proceed
4 with the necessary action to incur general obligation indebtedness and levy ad valorem property
5 taxes in accordance with such question. Any authority to contract general obligation indebtedness
6 or to levy ad valorem property taxes, if conferred by the results of the Election, shall be deemed and
7 considered a continuing authority to contract the general obligation indebtedness and levy the ad
8 valorem taxes so authorized at any one time, or from time to time, and neither the partial exercise of
9 the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the
10 full authority so conferred.

11 **Section 7.** If a majority of the votes cast on the question authorize the incurrence of general
12 obligation indebtedness and levy of an ad valorem property tax as described in the question set forth
13 in Section 3 above, the City intends to issue or incur such general obligation indebtedness in the
14 approximate aggregate principal amount of \$63,320,000 to pay the costs of the certain public
15 improvements described in the election question (the "Project") including the reimbursement of
16 certain costs incurred by the City prior to the execution and delivery of such bonds, upon terms
17 acceptable to the City, as authorized in an ordinance to be hereafter adopted and to take all further
18 action which is necessary or desirable in connection therewith. The officers, employees and agents
19 of the City shall take all action necessary or reasonably required to carry out, give effect to and
20 consummate the transactions contemplated hereby and shall take all action necessary or desirable
21 to finance the Project and to otherwise carry out the transactions contemplated by the ordinance.
22 This ordinance is intended to be a declaration of "official intent" to reimburse expenditures within the
23 meaning of Treasury Regulation § 1.150-2.

24 **Section 8.** Pursuant to Article XX of the State Constitution and the Charter, all State
25 statutes that might otherwise apply in connection with the provisions of this ordinance (including,
26 without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies or
27 conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or
28 conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article
29 XX of the State Constitution and the Charter.

30 **Section 9.** If any section, paragraph, clause or provision of this ordinance shall for any
31 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section,
32 paragraph, clause or provision shall in no manner affect any remaining provisions of this ordinance.

33 **Section 10.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed

1 to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance
2 or part of any ordinance heretofore repealed.

3 COMMITTEE APPROVAL DATE: August 3, 2021

4 MAYOR-COUNCIL DATE: August 10, 2021, by Consent

5 PASSED BY THE COUNCIL: _____ August 23, 2021

6 *Steve Gilmore* - PRESIDENT

7 APPROVED: _____ - MAYOR _____

8 ATTEST: _____ - CLERK AND RECORDER,
9 EX-OFFICIO CLERK OF THE
10 CITY AND COUNTY OF DENVER

11 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

12 PREPARED BY: Bradley T. Neiman, Assistant City Attorney DATE: August 12, 2021

13 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
14 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
15 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
16 3.2.6 of the Charter.

17 Kristin M. Bronson, Denver City Attorney

18 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Aug 12, 2021